logical. However in code states where *choses* in action are assignable the logic of the rule disappears. *Knapp* v. *Foley, supra.* Apart from logic, the expediency of extending the benefit of the covenant of seisin to subsequent grantees has been recognized in statutes declaring that the covenant of seisin runs with the land. Me., Rev. Stat. (1916) c. 87 § 31; Colo. Ann. Stat. (Gabriel, 1912) § 819.

REAL PROPERTY—FIXTURES—RIGHTS OF INNOCENT PURCHASERS.—The plaintiff sought to replevy a church bell, which in 1870 it had loaned to the X society. So long as the society existed the bell was to be kept in its church. In 1917 the society had disbanded and sold its building to the defendant. The latter took possession of the bell and refused to deliver it on demand. *Held,* that the plaintiff could not recover. Regarding the bell as personalty, the plaintiff was estopped from asserting his title. If it was part of the realty, it passed with the deed. *Inhabitants of Town of Andover* v. *MacAllister* (Me. 1920) 109 Atl. 750.

By the weight of authority chattels attached to the realty in such a manner as to indicate that they are fixtures will pass to a purchaser or mortgagee without notice, by a deed or mortgage of the premises, notwithstanding the express agreement between the owner of the chattels and the owner of the land that they should remain personal property. *Fifield* v. *Farmers' Nat. Bank* (1893) 148 Ill. 163, 35 N. E. 802. One taking with notice of the agreement, however, or of course a party to it, is bound by its terms. *Machinery Co.* v. *Brick & Tile Co.* (1913) 174 Mo. App. 485, 160 S. W. 902; *Washburn* v. *Inter-Mountain Min. Co.* (1910) 56 Ore. 578, 109 Pac. 382; *Sullivan* v. *Jones* (1880) 14 S. C. 362. It is a strange way of stating the rule, perhaps, to say that an object may at the same time be personalty as to one man and realty as to another. But, what is really the case is that the intention of the parties governs unless the rights of innocent purchasers are prejudiced. As to them the law has extended a protection analogous to that afforded by recording statutes to innocent purchasers of real property. In New York, on the contrary, the intention of the parties controls even as to innocent purchasers. *Godard* v. *Gould* (N. Y. 1853) 14 Barb. 662; but see *Ford* v. *Cobb* (1859) 20 N. Y. 344. This rule has been changed as to conditional sales by statutes so as to give the innocent purchaser additional protection. N. Y. Pers. Prop. Law (Consol. Laws, c. 41) § 62; see *Crocker-Wheeler Co.* v. *Genesee Recreation Co.* (1914) 160 App. Div. 373, 145 N. Y. Supp. 477. The provision of this statute, which calls for the recording in the county in which the attachment is to be made, of a contract for chattels to be attached to the realty, seems most adequately to provide for the interests of all concerned.

SALES—IMPLIED WARRANTY OF FOOD—NEGLIGENCE.—The complaint alleged in substance that the defendant, a wholesale baking corporation, manufactured a cake for human consumption and sold it to a retailer, who resold it to the plaintiff; that owing to a wire nail concealed therein, the plaintiff's gums were punctured. The trial court dismissed the complaint because there was no privity of contract between plaintiff and defendant. On appeal, a new trial was granted on the ground that despite the absence of contractual relations between the plaintiff and defendant, the implied warranty to the retailer "inured to the benefit of the plaintiff", who can recover either for breach thereof or

for negligence. *Chysky* v. *Drake Brothers Co. Inc.* (App. Div. 1st Dept. 1920) 182 N. Y. Supp. 459.

Generally, in a sale by the manufacturer, the law implies a warranty against latent defects arising out of the process of manufacture. *Kellogg Bridge Co.* v. *Hamilton* (1884) 110 U. S. 108, 3 Sup. Ct. 537; *Hoe* v. *Sanborn* (1860) 21 N. Y. 552; *Sinclair* v. *Hathaway* (1885) 57 Mich. 60, 23 N. W. 459. But unlike covenants running with the land, warranties do not run with personalty. *Offutt* v. *Twyman* (1839) 39 Ky. 43; see *Nelson* v. *Armour Packing Co.* (1905) 76 Ark. 352, 90 S. W. 288; *Bordwell* v. *Collie* (1871) 45 N. Y. 494. A contrary conclusion has been reached on the ground that the law implied a warranty directly to the consumer and not to the middleman. *Dothan Chero-Cola Bottling Co.* v. *Weeks* (Ala. 1918) 80 So. 734. That such a contention has some basis in reason is clear, since the sale to a retailer by the manufacturer of perishable food for human consumption has as its ultimate object a sale to the consumer. The middleman is the result of the growth and complexity of our industrial system and, in this instance particularly, a mere instrumentality for bringing the manufacturer and consumer together. But the doctrine of "no contract, no warranty", is too firmly established to be altered except by statute. However, a manufacturer may be liable for *negligence,* irrespective of contract; (1916) 16 Columbia Law Rev. 428; (1905) 5 *ibid.* 67; *Parks* v. *The C. C. Yost Pie Co.* (1914) 93 Kan. 334, 144 Pac. 202; *Catani* v. *Swift & Co.* (1915) 251 Pa. 52, 95 Atl. 931; *contra, Salmon* v. *Libby, McNiel & Libby* (1904) 114 Ill. App. 258, and the tendency is to raise the standard of care required of him. (1916) 16 Columbia Law Rev. 428; see *Parks* v. *The C. C. Yost Pie Co., supra.* But in the instant case, no negligence on the defendant's part was alleged or proved. Although the instant case cannot, therefore, be supported according to settled doctrine on either of the two grounds advanced by the court, the conclusion imposing practically an absolute liability upon a manufacturer of food for human consumption may be desirable for the protection of the public.

BOOK REVIEWS

RAILROAD VALUATION BY THE INTERSTATE COMMERCE COMMISSION. By HOMER B. VANDERBLUE. Cambridge: HARVARD UNIVERSITY PRESS. 1920. pp. 119.

This is a reprint of two articles in the Quarterly Journal of Economics. It supplements the author's previous "Railroad Valuation" (Boston and New York: Houghton Mifflin Co. 1917. pp. xiii, 222.) by examining critically the valuation work of the Interstate Commerce Commission under the Valuation Section (19*a*) of the Interstate Commerce Act of 1913, the text of which is printed as an appendix. The commission is required by this Act to report and to set down separately "the original cost to date, the cost of reproduction new, the cost of reproduction less depreciation" of "each piece of property owned or used by said common carrier for its purposes as a common carrier"; also "the original cost of all lands, rights of way, and terminals", and "the present value of the same". At the time of publication, the commission had made formal findings of the separate "basic facts"